

BOARD OF APPEALS CASE NO. 4916

*

BEFORE THE

APPLICANT: Thomas Engelke

*

ZONING HEARING EXAMINER

REQUEST: Variance to permit a
commercial greenhouse within the
required 50 foot front yard setback;
3308 Churchville Road, Aberdeen

*

OF HARFORD COUNTY

*

Hearing Advertised

*

Aegis: 5/5/99 & 5/12/99

HEARING DATE: June 23, 1999

*

Record: 5/7/99 & 5/14/99

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicant, Thomas Engelke, appeared before the Hearing Examiner requesting a variance to Section 267-34(C), Table II, of the Harford County Code, to permit a commercial greenhouse within the required 50 foot front yard setback in an Agricultural District.

The subject property is located at 3308 Churchville Road in the Third Election District. The parcel is identified as Parcel No. 2, in Grid 1-A, on Tax Map 51. The parcel contains 5.28 acres, more or less, all of which is zoned Agricultural.

Mr. Thomas Engelke appeared and testified that he purchased the subject property in February 1999 with the intent of operating a commercial nursery on the parcel. The witness said that he contacted the Department of Planning and Zoning to determine whether it was necessary to obtain a permit to construct commercial greenhouses. The Applicant said that he was advised that permits would not be needed, but he was required to maintain a 40 foot front yard setback. The Applicant said when constructing greenhouses, it is necessary that they be constructed from east to west in order to allow the maximum sunlight and, taking this into consideration, he began construction of two greenhouses with one of the greenhouses at the closest point being 65 feet from the edge of MD Route 22. During construction, the Applicant was advised that in order to get electrical and plumbing permits, it would be necessary to obtain building permits for the greenhouses. The Applicant said he was later advised that the 40 foot setback was not from the edge of the road but from his property line and that at the closest point, one of the greenhouses is 24 feet from the front property line.

Case No. 4916 - Thomas Engelke

The Applicant introduced, as Petitioner's Exhibit No. 1, a plat of the subject property, showing the location of the greenhouses, existing structures on the property, existing woodland, and existing wetland, along with the 75 foot wetland buffer. The Applicant said the subject parcel is unique due to the existence of the wetland and wetland buffer which greatly reduces the usable area on the parcel and that if he is required to relocate the greenhouses, it may be necessary to obtain a variance to locate them within the wetland buffer and also remove existing mature vegetation.

The Applicant said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the Code because the location of the greenhouses do not create a traffic problem, do not effect the view, do not create noise or odor and, further, that existing vegetation will eventually screen the greenhouses from Churchville Road.

No protestants appeared in opposition to the Applicant's request, and the Staff Report of the Department of Planning and Zoning indicates that the Applicant can adequately justify the request and provides:

"Due to the location of existing improvements, the location of the well and septic system, and the proximity of adjoining residential uses, the present location for the greenhouse is the most practical."

CONCLUSION:

The Applicant is requesting a variance to Section 267-34(C), Table II, of the Harford County Code, to permit an existing greenhouse within the required 50 foot front yard setback. The plat which the Applicant introduced as Petitioner's Exhibit No. 1, indicates that, at the closest point, one of the greenhouses is 24 feet from the front property line, but is actually 65 feet from the paved edge of MD Route 22.

The uncontradicted evidence indicates that the Applicant inquired as to whether permits were necessary to construct the greenhouses, and he was advised by the Department of Planning and Zoning that they were not but that he must maintain the required setbacks. The evidence indicates the Applicant measured from the edge of the road instead of his property line and, therefore, the Applicant is requesting a variance for the one greenhouse which is partially constructed and within the required setback.

Case No. 4916 - Thomas Engelke

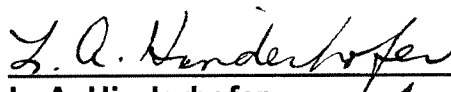
The evidence further indicates that the parcel has a substantial area of non-tidal wetland, as well as a non-tidal wetland buffer and mature woodland. No evidence was introduced that approval of the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code, and the evidence further indicates that the location of the greenhouse will not impact traffic on MD Route 22, effect the view or create noise or odor.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance be granted due to the uniqueness of the property and, further, that the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code for the reasons stated by the Applicant in his testimony.

The variance shall be subject to the following conditions:

1. The Applicant obtain all necessary permits and inspections for the greenhouse.
2. The Applicant submit a detailed site plan reflecting all improvements, including buildings and their intended uses, signs, parking areas and storage areas and wells and septic systems.

Date JULY 8, 1999



L. A. Hinderhofer
Zoning Hearing Examiner